

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JONATHAN JOE JONES,

Defendant-Appellant.

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UNPUBLISHED

August 19, 2003

No. 221264

Saginaw Circuit Court

LC No. 98-016374-FC

ON REMAND

Before: Griffin, P.J., and Neff and White, JJ.

PER CURIAM.

Defendant appeals as of right his jury trial convictions of first-degree murder, MCL 750.316, and conspiracy to commit first-degree murder, MCL 750.316. On remand from the Supreme Court for resolution of defendant's additional issue, *People v Jones*, 468 Mich 345; 662 NW2d 376 (2003), we affirm.

Defendant argues that the trial court abused its discretion when it admitted into evidence prejudicial photographs of the victim's body. We disagree.

The decision to admit photographs is within the discretion of the trial court. *People v Flowers*, 222 Mich App 732, 736; 565 NW2d 12 (1997). As we explained in *People v Zeitler*, 183 Mich App 68, 69-70; 454 NW2d 192 (1998),

Photographs are not inadmissible merely because they are gruesome and shocking. *People v Stewart*, 126 Mich App 374, 377-378; 337 NW2d 68 (1983). However, such photographs should not be admitted if their probative value is substantially outweighed by the danger of unfair prejudice. MRE 403; *People v Turner*, 17 Mich App 123, 130; 169 NW2d 330 (1969). The danger is that exposure to vivid and gruesome images of the victim will cause a juror to forget that the defendant may not be responsible for the outrage. *People v Bryant*, 129 Mich App 574, 581; 342 NW2d 86 (1983).

In the instant case, we hold that the trial court did not abuse its discretion by admitting the photographs. First-degree murder is an intentional killing that requires premeditation and deliberation. *People v Goecke*, 457 Mich 442, 481; 579 NW2d 868 (1998). The photographs were relevant regarding defendant's intent and were instructive on the nature and extent of the victim's injuries. The exhibits tended to prove that defendant did not merely intend to harm the

victim but intended to kill her. *Flowers, supra.* Moreover, the probative value of the photographs was not substantially outweighed by the danger of unfair prejudice because the nature of the crime was vicious and the jury needed to view the photographs to determine the specific act intended. Although the photographs depicted the victim's body, the victim did not die until months after the beating. Under the circumstances, the trial court did not abuse its discretion by allowing the jury to view the nature and extent of the victim's injuries rather than to rely solely on the testimony of witnesses at trial.

Affirmed.

/s/ Richard Allen Griffin

/s/ Janet T. Neff

/s/ Helene N. White